Supreme Court, U.S.
FILED
05-122 JUL 20 2005
OFFICE OF

No. _____

In the Supreme Court of the United States

DEBORAH STIDHAM,

Petitioner,

v.

MINNESOTA MINING AND MANUFACTURING, INC., d/b/a 3M COMPANY,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does the Eighth Circuit decision conflict with the decisions of other United States Courts of Appeal on the issue of what is required to establish a *prima facie* case under the ADEA?

2. Did the Eighth Circuit inappropriately modify the burden shifting framework announced by this Court in ***McDonnell Douglas Corporation v. Green,*** and ***O'Connor v. Consolidated Coin Caterers Corp.,*** and thereby create a new legal standard for disparate treatment cases?

PARTIES TO THE PROCEEDING AND CORPORATE DISCLOSURE STATEMENT

The parties to the proceeding are set forth in the case caption. Petitioner Stidham was the plaintiff in the District Court and appellant in the Court of Appeals. Respondent Minnesota Mining and Manufacturing, d/b/a 3M Company, is a public business corporation.

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I. Certiorari is warranted because the Eighth Circuit decision conflicts with the decisions of other United States Courts of Appeal on the issue of what is required to establish a *prima facie* case under the ADEA. 4

II. Certiorari is warranted because the Eighth Circuit inappropriately modified the burden shifting framework announced by this Court in ***McDonnell Douglas Corporation v. Green,*** and ***O'Connor v. Consolidated Coin Caterers Corp.,*** and created a new legal standard for disparate treatment cases 16

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The February 25, 2005, Panel Opinion of the United States Court of Appeals for the Eighth Circuit is reported at 399 F.3d 935 (8th Cir. 2005) and reprinted at App. 2a. The Panel affirmed the entry of judgment upon Respondent's motion for summary judgment.

STATEMENT OF JURISDICTION

The Eighth Circuit denied a timely filed petition for rehearing on April 21, 2005. App. 1a. Petitioner invokes this Court's jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

29 U.S.C. § 623(a) provides in pertinent part:

It shall be unlawful for an employer –

(1) to fail or refuse to hire or discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment, because of such individual's age.

STATEMENT OF THE CASE

Petitioner Stidham brought suit in the Western District Court of Missouri, Central Division, alleging that her termination violated the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 623 and the Missouri Human Rights Act, Chapter 213, Mo. Rev. Stat. (2000). App. 12a. After discovery Respondent Minnesota Mining and Manufacturing, Inc. (hereinafter "3M") moved for summary

judgment. After briefing and oral argument, the District Court granted 3M's motion for summary judgment. The Eighth Circuit Court of Appeals upheld the decision dismissing Stidham's claim, holding that she had not established a *prima facie* case of age discrimination.

Stidham worked at the Columbia, Missouri, facility of the 3M Company beginning in August 1976. She was employed in production as a machine operator from August 1976 through March 1979. In April 1980, Stidham was promoted to management as a shift supervisor. She held a supervisory or management position through the date of her termination. App. 21a, 23a. In 2000, she was selected to serve within the Plant Engineering Department in a new position called "Environmental Administrator." Stidham's position with 3M as Environmental Administrator was created to help address the many state and federal regulations with respect to 3M's waste issues and to promote recycling. She was to extend the recycling program with 3M in conjunction with 3M's Resource Recovery Group and she was charged with the obligation to reduce the waste generated at the Columbia facility. App. 24a - 31a.

No other employee at the 3M facility in Columbia, Missouri, held Stidham's job title or engaged in the same duties. There is no dispute that Stidham performed her job duties satisfactorily or that she had no problems with her supervisor and her co-workers. App. 14a.

Stidham's employee evaluation for the year 2000, was electronically signed by Wall on March 22, 2001. As part of that evaluation, Wall stated, "I believe the Environmental Administrator role is a good fit for Debbie and 3M. **There is some vital work to be done here** recycling waste and the refrigerant coordination. Debbie has the skills to interface